

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 6 (Sub-No. 497X)]

BNSF Railway Company—Abandonment Exemption—in Benton County, Minn.

BNSF Railway Company (BNSF) has filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon a 1.75-mile line of railroad located between milepost 0.0 and milepost 1.75 in Benton County, Minn. (the Line).¹ The Line traverses United States Postal Zip Code 56379.

BNSF has certified that: (1) no local or overhead freight rail traffic has traveled over the Line since July 2015; (2) no formal complaint filed by a user of a rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line is either pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of a complainant within the two-year period; and (3) the requirements at 49 C.F.R. § 1105.11 (transmittal letter), 49 C.F.R. § 1105.12 (newspaper publication), and 49 C.F.R. § 1152.50(d)(1) (notice to governmental agencies) have been met.²

¹ As originally filed, the verified notice indicated that the Line is in Stearns County, Minn. On December 4, 2017, BNSF filed a correction (including an updated map) indicating that the Line is located in Benton County, Minn., a short distance north and east of Stearns County. According to BNSF, its notice is correct in all other respects.

² BNSF's December 4 correction indicates that the St. Cloud Times, where notice of the proposed abandonment was published, is a newspaper of general circulation in Benton County. BNSF also states that it will serve a copy of the Environmental Report on the Administrator for Benton County, Minn.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. § 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on January 9, 2018, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,³ formal expressions of intent to file an OFA under 49 C.F.R. § 1152.27(c)(2),⁴ and interim trail use/rail banking requests under 49 C.F.R. § 1152.29 must be filed by December 18, 2017. Petitions to reopen or requests for public use conditions under 49 C.F.R. § 1152.28 must be filed by December 28, 2017, with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001.⁵

³ The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. See Exemption of Out-of-Serv. Rail Lines, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

⁴ Each OFA must be accompanied by the filing fee, which is currently set at \$1,800. See Regulations Governing Fees for Servs. Performed in Connection with Licensing & Related Servs.—2017 Update, EP 542 (Sub-No. 25), slip op. App. C at 20 (STB served July 28, 2017).

⁵ BNSF states that the Line may be suitable for other public purposes and that there are 18.60 acres on the Line of which 0.02 acres are reversionary.

A copy of any petition filed with the Board should be sent to Karl Morell, Karl Morell & Associates, 440 1st Street, N.W., Suite 440, Washington, D.C. 20001.

If the verified notice contains false or misleading information, the exemption is void ab initio.

BNSF has filed a combined environmental and historic report that addresses the effects, if any, of the abandonment on the environment and historic resources. OEA will issue an environmental assessment (EA) by December 15, 2017. Interested persons may obtain a copy of the EA by writing to OEA (Room 1100, Surface Transportation Board, Washington, DC 20423-0001) or by calling OEA at (202) 245-0305. Assistance for the hearing impaired is available through the Federal Information Relay Service at (800) 877-8339. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 C.F.R. § 1152.29(e)(2), BNSF shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the Line.

If consummation has not been effected by BNSF's filing of a notice of consummation by December 7, 2018, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at WWW.STB.GOV.

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Decided: December 5, 2017.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.